

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Stephen McKitrick,

Case No. 3:14 CV 859

Plaintiff

v.

ORDER

Ronald A. Fry, et al.,

Defendants

On April 21, 2014, plaintiff *pro se* Stephen McKitrick, an inmate at North Central Correctional Institution, filed this civil rights action against defendants Ronald A. Fry, Reginald J. Routson, Mark Miller, Drew A. Wartman, Kenneth J. Sass, and Jerry McHenry. Plaintiff alleges in the complaint that he is incarcerated as a result of convictions in the Hancock County Court of Common Pleas, but asserts the Ohio court lacked jurisdiction to prosecute him. He seeks monetary damages.

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; *Siller v. Dean*, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000).

Plaintiff's claims implicitly challenge the validity of his conviction and resulting confinement. The Supreme Court has held that, when a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." *Preiser v. Rodriguez*, 411 U.S. 475, 501 (1973). Further, absent allegations that criminal proceedings terminated in plaintiff's favor or that a conviction stemming from the asserted

violation of his rights was reversed, expunged by executive order, declared invalid by a state tribunal, or called into question by a federal court's issuance of a writ of habeas corpus, he may not recover damages for his claim. *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

Accordingly, this action is dismissed under section 1915A. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

So ordered.

/s James G. Carr
Sr. U.S. District Judge